

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

|                            |   |                     |
|----------------------------|---|---------------------|
| ZF MERITOR LLC and MERITOR | ) |                     |
| TRANSMISSION CORPORATION,  | ) |                     |
|                            | ) |                     |
| Plaintiffs,                | ) |                     |
|                            | ) |                     |
| v.                         | ) | Civ. No. 06-623-SLR |
|                            | ) |                     |
| EATON CORPORATION,         | ) |                     |
|                            | ) |                     |
| Defendant.                 | ) |                     |

**VERDICT SHEET**

Dated: October 7, 2009

We, the jury, unanimously find as follows:

**I. Relevant Market**

1. Did plaintiffs prove, by a preponderance of the evidence, that the relevant geographic market is North America?

*"Yes" is a finding for plaintiffs. "No" is a finding for defendant.*

Yes ☒

No ☐

*If your answer is "Yes," proceed to Question 2.*

*If your answer is "No," do not consider any additional questions. Please sign this verdict sheet and inform the court security officer that you have reached a verdict.*

**II. Plaintiffs' Section I Unreasonable Restraint of Trade Claim**

2. Did plaintiffs prove, by a preponderance of the evidence, the existence of a contract(s), combination or conspiracy between defendant and others that unreasonably restrained trade?

*"Yes" is a finding for plaintiffs. "No" is a finding for defendant.*

Yes ☒

No ☐

*If your answer is "Yes," proceed to Question 3.*

*If your answer is "No," proceed to Question 5.*

3. Did plaintiffs prove, by a preponderance of the evidence, that the competitive harms associated with the unreasonable restraint of trade outweigh any competitive benefits proven by defendant?

*"Yes" is a finding for plaintiffs. "No" is a finding for defendant.*

Yes ☒

No ☐

*If your answer is "Yes," proceed to Question 4.*

*If your answer is "No," proceed to Question 5.*

4. Did plaintiffs prove, by a preponderance of the evidence, that defendant's unreasonable restraint of trade caused plaintiffs to suffer antitrust injuries to their business or property at any time since March 28, 2002?

*"Yes" is a finding for plaintiffs. "No" is a finding for defendant.*

Yes ☒

No ☐

Proceed to Question 5.

### III. Plaintiffs' Section 2 Monopolization Claim

5. Did plaintiffs prove, by a preponderance of the evidence, that defendant unlawfully acquired or maintained monopoly power in the relevant market identified in Question 1, by engaging in anticompetitive conduct?

"Yes" is a finding for plaintiffs. "No" is a finding for defendant.

Yes ☒

No ☐

If your answer is "Yes," proceed to Question 6.

If your answer is "No," proceed to Question 8.

prevented competition  
excluded competition  
monopolist-unlawful  
when it involves anti-  
competitive acts

6. Did plaintiffs prove, by a preponderance of the evidence, that the competitive harms associated with defendant's monopoly power (as per Question 5) outweigh the competitive benefits proven by defendant?

"Yes" is a finding for plaintiffs. "No" is a finding for defendant.

Yes ☒

No ☐

If your answer is "Yes," proceed to Question 7.

If your answer is "No," proceed to Question 8.

7. Did plaintiffs prove, by a preponderance of the evidence, that defendant's unlawful acquisition or maintenance of monopoly power caused plaintiffs to suffer antitrust injuries to their business or property at any time since March 28, 2002?

"Yes" is a finding for plaintiffs. "No" is a finding for defendant.

Yes ☒

No ☐

If your answer is "Yes," proceed to Question 11.

If your answer is "No," proceed to Question 8.

### IV. Plaintiffs' Section 2 Attempt to Monopolize Claim

8. Did plaintiffs prove, by a preponderance of the evidence, that defendant engaged in anticompetitive conduct with a specific intent to monopolize the relevant market identified in Question 1?

"Yes" is a finding for plaintiffs. "No" is a finding for defendant.

Yes \_\_\_\_\_

No \_\_\_\_\_

*If your answer is "Yes," proceed to Question 9.*

*If your answer is "No," proceed to Question 11.*

9. Did plaintiffs prove, by a preponderance of the evidence, that there was a dangerous probability that defendant would achieve its goal of monopolizing the relevant market identified in Question 1?

*"Yes" is a finding for plaintiffs. "No" is a finding for defendant.*

Yes \_\_\_\_\_

No \_\_\_\_\_

*If your answer is "Yes," proceed to Question 10.*

*If your answer is "No," proceed to Question 11.*

10. Did plaintiffs prove, by a preponderance of the evidence, that defendant's attempt to monopolize the relevant market identified in Question 1 caused plaintiffs to suffer antitrust injuries to their business or property at any time since March 28, 2002?

*"Yes" is a finding for plaintiffs. "No" is a finding for defendant.*

Yes \_\_\_\_\_

No \_\_\_\_\_

*Proceed to Question 11.*

#### **V. Plaintiffs' Clayton Act Section 3 Claim**

11. Did plaintiffs prove, by a preponderance of the evidence, that defendant entered into contracts for the sale of heavy duty transmissions that constituted de facto exclusive dealing contracts?

*"Yes" is a finding for plaintiffs. "No" is a finding for defendant.*

Yes ☒ \_\_\_\_\_

No \_\_\_\_\_

*If your answer is "Yes," proceed to Question 12.*

*If your answer is "No," do not consider any additional questions. Please sign this verdict sheet and inform the court security officer that you have reached a verdict.*

12. Did plaintiffs prove, by a preponderance of the evidence, that defendant entered into a sufficient number of de facto exclusive dealing contracts such that defendant's conduct substantially lessened competition or tended to create a monopoly in the relevant market identified in Question 1?

*"Yes" is a finding for plaintiffs. "No" is a finding for defendant.*

Yes ☒ \_\_\_\_\_

No \_\_\_\_\_

*If your answer is "Yes," proceed to Question 13.*

*If your answer is "No," do not consider any additional questions. Please sign this verdict sheet and inform the court security officer that you have reached a verdict.*

13. Did plaintiffs prove, by a preponderance of the evidence, that the competitive harms associated with the de facto exclusive dealing contracts outweigh the competitive benefits proven by defendant?

*"Yes" is a finding for plaintiffs. "No" is a finding for defendant.*

Yes ☒ \_\_\_\_\_

No \_\_\_\_\_

*If your answer is "Yes," proceed to Question 14.*

*If your answer is "No," do not consider any additional questions. Please sign this verdict sheet and inform the court security officer that you have reached a verdict.*

14. Did plaintiffs prove, by a preponderance of the evidence, that defendant's de facto exclusive dealing contracts caused plaintiffs to suffer antitrust injuries to their business or property at any time since March 28, 2002?

*"Yes" is a finding for plaintiffs. "No" is a finding for defendant.*

Yes ☒ \_\_\_\_\_

No \_\_\_\_\_

*Please sign this verdict sheet and inform the court security officer that you have reached a verdict.*